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| 10/517,958 | 12/14/2004 | Eric Fresnel | 6758-0004WOLUS | 3775 |
| 35301 | 7590 | 08/20/2007 | EXAMINER | |
| MCCORMICK, PAULDING & HUBER LLP | | | JACOBSON, MICHELE LYNN | |
| CITY PLACE II | | | ART UNIT | PAPER NUMBER |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | |
|------------------------------|------------------------|---------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/517,958 | FRESNEL, ERIC |
| | Examiner | Art Unit |
| | Michele Jacobson | 1709 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 14 December 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-15 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-15 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 14 December 2004 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/14/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 6 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 6 recites the limitation "wherein the overlap strip adheres to the end zones by adhesive or the like, with the coefficient of adhesion on either side of the two facing free edges being identical or different". The phrasing "identical or different" includes all possible combinations of adhesion coefficients and therefore does not further limit the invention claimed in claim 1. Additionally, it is very unlikely that the coefficient of adhesion for both sides of the seam would be identical.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

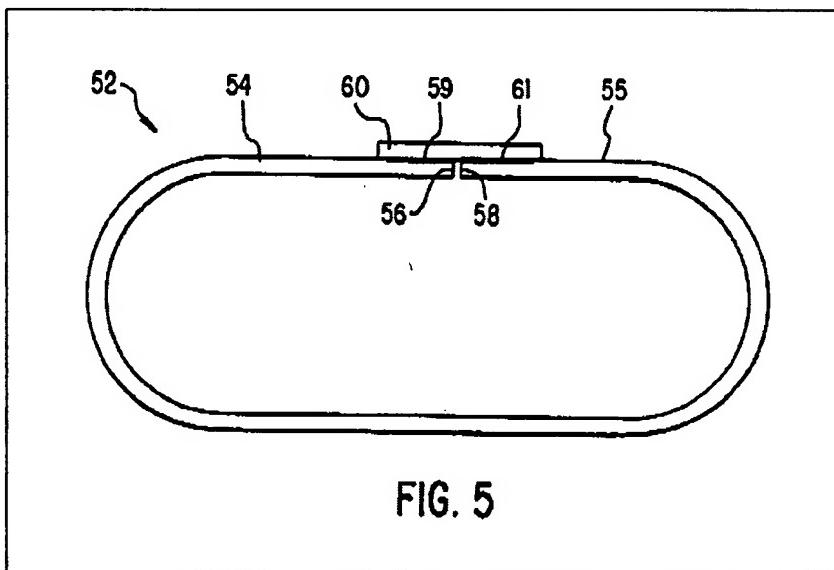
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent

granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 2, 4-6 and 15 rejected under 35 U.S.C. 102(b) as being anticipated by Ramesh et al. U.S. Patent No. 6,221,410 (hereafter referred to as Ramesh).

4. Ramesh teaches a back seamed casing comprising a heat-shrinkable film (54) (Figure 5, Col. 3, lines 56-58) that has been butt-sealed with a butt-seal tape (60) that is



heat-shrinkable. (Col. 5, lines 36-39). The butt-seal tape can be "sealed to the inside or the outside surface of the casing film, along both sides of the abutting longitudinal seam of the casing film". (Col 1, line 66 - Col. 2 line 2). The butt-seal can be formed by "any and all means of closing a package, such as heat sealing... ultrasonic, and radio frequency sealing". (Col. 8, lines 22-28).

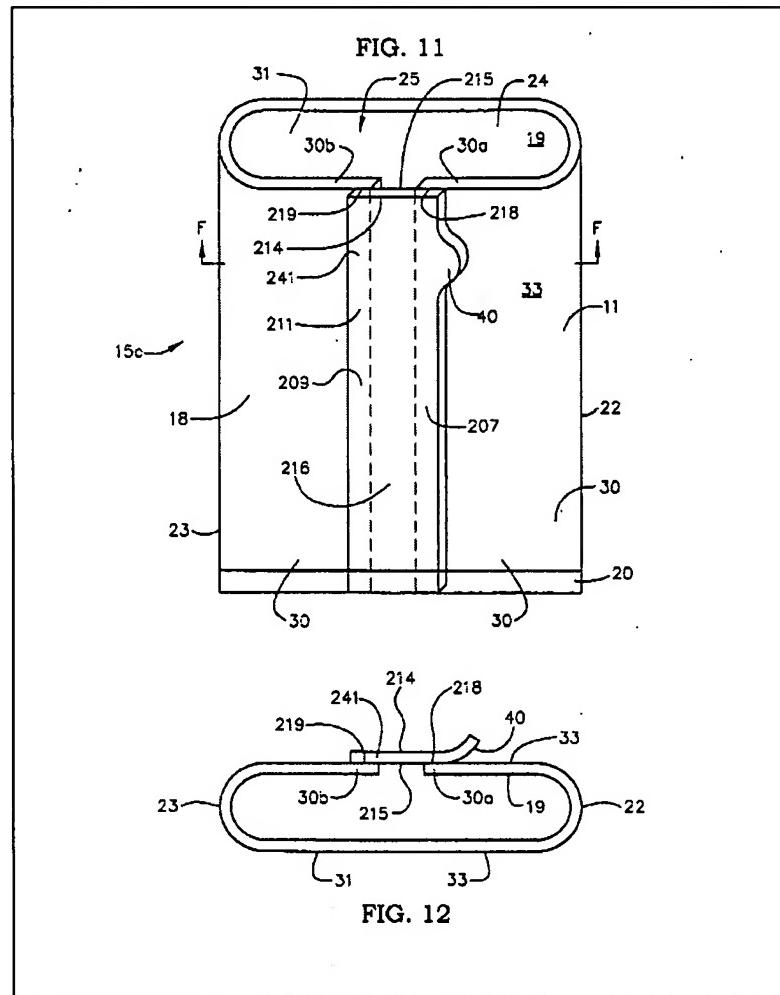
5. Ramesh clearly anticipates the butt-sealed sleeve of heat-shrink material where the overlap strip of the seam can be disposed on either the inside or outside of the wrapper as recited in claims 1, 2 and 4. Ramesh also anticipates the methods used for sealing the overlap strip and the limitation that the coefficient of adhesion between the overlap strip and either side of the seam be identical or different as recited in claims 5

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and 6. Additionally, Ramesh anticipates the limitation that the overlap strip is made of heat shrinkable material as recited in claim 15.

6. Claims 1, 2, 4-6, 8, 9, and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Busche et al. U.S. Patent Application No. 10/645,186 (hereafter referred to as Busche).

7. Busche teaches a tube of heat shrinkable material that can be used to form bags for packaging. In one embodiment of the invention the edges of the heat shrink material, (30a) and (30b), are joined in an abutting edge-to-edge relationship by adhering a heat shrinkable butt-seal overlap tape (241) having a peelable seal. (Para. [0049], Figs. 11 and 12) The butt-seal tape may extend past the first or second heat seals, (218) and



(219), to provide a pull flap (40). (Para. [0049], Figs. 11 and 12) The butt-seal tape maybe be disposed on either the inside or the outside of the tube. (Para. [0050]) Sealing of the tube is accomplished by heat sealing or adhesive. (Para. [0024])

8. Busche clearly anticipates the butt-sealed sleeve of heat-shrink material where the overlap strip of the seam can be disposed on either the inside or outside of the wrapper as recited in claims 1, 2 and 4. Busche also anticipates the methods used for sealing the overlap strip and the limitation that the coefficient of adhesion between the overlap strip and either side of the seam be identical or different as recited in claims 5 and 6. The limitation of the overlap strip being peel-off as recited in claim 8 is clearly anticipated by Busche. A pull-tab being disposed on one edge the overlap strip that is not adhered to the outside face of the sleeve as recited in claim 9 is also clearly anticipated by Busche. Additionally, Busche anticipates the limitation that the overlap strip is made of heat shrinkable material as recited in claim 15.

9. Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1-3, and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ramesh as applied to claims 1, 2, 4-6 and 15 above in view of Simmons U.S. Patent No. 5,788,076.

12. Ramesh is silent regarding disposing decorations on the inside of the heat shrinkable sleeve material, perforating the sleeve material or overlap strip, and extending the overlap strip to include a pull tab.

13. Simmons teaches a heat shrink sleeve for packaging that has printing on the inner or outer surface, in the latter case, the wrapper being transparent or semi-opaque. (Col. 1, lines 63-66, Col. 2, lines 17-18). The wrapper extends over the outer container surface in a continuous manner without any overlapping portions to provide a generally smoother outer surface for the package. (Fig. 1, Col. 2, lines 30-32)

Simmons recites a tear strip (7) extending between the top and bottom

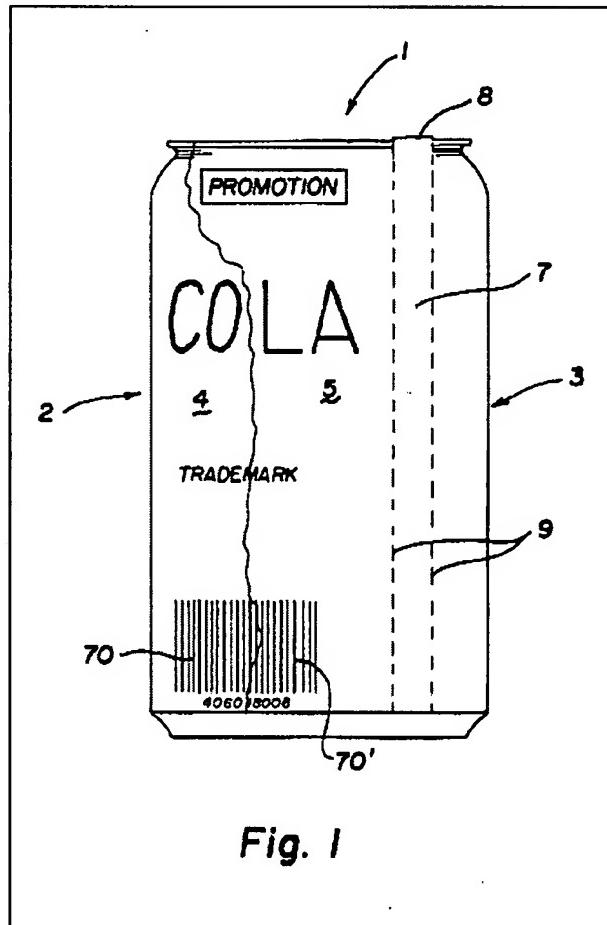


Fig. 1

portion of the wrapper as a means of removing the wrapper from the container. (Col. 2, lines 53-55) The tear strip is defined by a pair of parallel perforations lines (9) and

provided with an extension (8) to facilitate gripping of the strip for enhanced accessibility.

14. The motivation to combine Simmons with Ramesh would have been to reduce the expense of printing new packaging materials for promotions and to provide "information in addition to the regular information already printed on cans for, say, a comparatively short period of time for limited period promotional purposes". (Simmons, Col. 1, lines 24-27)

15. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined Simmons with Ramesh in order to produce the invention as claimed in claims 1-3. Simmons teaches transparent heat shrink material with printing on the inside to the butt-sealed heat shrink sleeve wrapper material recited by Ramesh.

16. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined Simmons with Ramesh in order to produce a wrapper with a line of microperforations in the vicinity of the overlap strip as recited in claim 13 to facilitate opening of the package. Additionally, since microperforation is so universally known in the shrink wrap art, it would have been obvious to one having ordinary skill in the art at the time the invention was made to dispose perforations extending down the length of the overlap strip to enable the sleeve to be torn open, as recited in claim 12, without damaging the wrapper. Providing a pull-tab on the end of the overlap strip as recited in claim 14 would have been obvious to one having ordinary skill in the shrink wrap art and in view of the pull-tab recited by Simmons.

17. Claims 1-3, 9, 10 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Busche as applied to claims 1, 2, 4-6, 8, 9, and 15 above in view of Simmons U.S. Patent No. 5,788,076.

18. The motivation to combine Simmons with Busche would have been to reduce the expense of printing new packaging materials for promotions and to provide "information in addition to the regular information already printed on cans for, say, a comparatively short period of time for limited period promotional purposes". (Simmons, Col. 1, lines 24-27)

19. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined Simmons with Busche in order to produce the invention as claimed in claims 1-3. Simmons teaches transparent heat shrink material with printing on the inside to the butt-sealed heat shrink sleeve wrapper material recited by Busche.

20. Perforation is well known in the shrink-wrap art and taught by Simmons. Since Busche already includes a flap on one side of the overlap strip as claimed in claim 9 it would have been obvious to one having ordinary skill in the art at the time the invention was made to have cut a line along the flap as claimed in claim 10 if one desired that the flap of the overlap strip be detachable.

21. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined Simmons with Busche in order to produce a wrapper with a line of microperforations in the vicinity of the overlap strip as recited in

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claim 13 to facilitate opening of the package. Additionally, since microperforation is so universally known in the shrink wrap art, it would have been obvious to one having ordinary skill in the art at the time the invention was made to dispose perforations extending down the length of the overlap strip to enable the sleeve to be torn open, as recited in claim 12, without damaging the wrapper. Providing a pull-tab on the end of the overlap strip as recited in claim 14 would have been obvious to one having ordinary skill in the shrink wrap art and in view of the pull-tab recited by Simmons.

22. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Busche as applied to claims 1, 2, 4-6, 8, 9, and 15 above in view of Fumei U.S. Patent No. 4,567,681.

23. Fumei teaches an easily recyclable, labeled container that uses solvent bonding to attach a label that can be easily removed for recycling of the container.

24. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have to have combined Fumei with Busche to produce easily removable packaging that allows the wrapped article to be more easily recycled.

25. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Busche as applied to claims 1, 2, 4-6, 8, 9, and 15 above in view of Slomski U.S. Patent No. 6,152,508.

26. Slomski teaches using heat sealing or pressure sensitive adhesive to bond two pieces of plastic to provide a handle for a plastic carrier. (Col. 1, line 64- Col. 2, line 8)

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27. It would have been obvious to one having ordinary skill in the packaging art at the time the invention was made who desired a handle made of heat shrinkable material to have combined Slomski with Busche in order to produce the invention as claimed in claim 11.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Jacobson whose telephone number is (571) 272-8905. The examiner can normally be reached on Monday-Friday 7:30 AM-5 PM EST (First Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, D. Lawrence Tarazano can be reached on (571) 272-1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michele L. Jacobson
Examiner 
Art Unit 1709

D. LAWRENCE TARAZANO
PRIMARY EXAMINER

